

ORIGINAL

IN THE UNITED STATES DISTRICT COURT FOR  
ALABAMA MIDDLE DISTRICT  
(Opelika)

RECEIVED

City of Phenix City, et al., )  
 )  
Plaintiffs, )  
 )  
v. ) Civil Action File  
 ) No. 3:06-cv-01074-MHT-WC  
McKenzie Tank Lines, Inc., d/b/a )  
McKenzie Tank Lines of Alabama, Inc., )  
 )  
Defendant. )  
\_\_\_\_\_ )

2006 DEC 11 A 11:42

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

**APPLICATION OF STEPHEN E. O'DAY**  
**TO APPEAR PRO HAC VICE**

Stephen E. O'Day, pursuant to Local Rule 83.1(b) hereby requests permission to appear *pro hac vice* in the subject case filed in the United States District Court for the Middle District of Alabama (Opelika), and states as follows:

1. I am one of the co-counsel for Defendant McKenzie Tank Lines, Inc., d/b/a McKenzie Tank Lines of Alabama, Inc.
2. I currently reside at 950 Poplar Springs Road, Dallas, Georgia 30132.
3. My business address and telephone numbers are Smith, Gambrell & Russell, LLP, Suite 3100, Promenade II, 1230 Peachtree Street, NE, Atlanta, Georgia 30309-3592. Telephone 404-815-3500; facsimile 404-815-3509. My email address is [soday@sgrlaw.com](mailto:soday@sgrlaw.com).
4. I am admitted to practice law in the State of Georgia and am a member in good standing of the Georgia State Bar since July 11, 1979.
5. I am admitted to practice in, and remain a member in good standing of, the United States District Court for the Northern District of Georgia - a Certificate of Good Standing is attached hereto.

6. I am also admitted to practice in the following courts and jurisdictions:

| <u>Court/Jurisdiction</u>              | <u>Date of Admission</u> |
|--|--------------------------|
| Supreme Court of Georgia               | 07/11/79                 |
| Georgia Court of Appeals               | 07/11/79                 |
| All Georgia Superior and State Courts  | 1979                     |
| <b>United States District Courts:</b>  |                          |
| Middle District of Georgia             | 06/18/86                 |
| Southern District of Georgia           | 09/17/90                 |
| Eastern District of Michigan           | 07/---/00                |
| <b>United States Courts of Appeals</b> |                          |
| Fourth Circuit (Richmond, Virginia)    | 09/28/88                 |
| Fifth Circuit (New Orleans, Louisiana) | 10/01/81                 |
| Sixth Circuit (Cincinnati, Ohio)       | 07/13/99                 |
| Eleventh Circuit (Atlanta, Georgia)    | 10/01/81                 |
| United States Supreme Court            | 02/24/86                 |
| Court of Federal Claims                | 05/17/83                 |

7. I declare under penalty of perjury the foregoing is true and correct.

Respectfully submitted this 8<sup>th</sup> day of December, 2006.

  
\_\_\_\_\_  
Stephen E. O'Day  
Georgia Bar No. 549337

Smith, Gambrell & Russell, LLP  
Suite 3100, Promenade II  
1230 Peachtree Street, N.E.  
Atlanta, Georgia 30309-3592  
(404) 815-3500  
(404) 815-3509 - facsimile

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City of Phenix City, et al., )

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Civil Action File

No. 3:06-cv-01074-MHT-WC

McKenzie Tank Lines, Inc., d/b/a )

McKenzie Tank Lines of Alabama, Inc., )

Defendant. )

**CERTIFICATE OF SERVICE**

I hereby certify that I have served all parties with the within and foregoing **Application of Stephen E. O'Day to Appear *Pro Hac Vice***; and **Order of Admission** on the date shown below by depositing a copy of same in the United States Mail, First Class postage prepaid, in an envelope addressed to the following:

Kenneth L. Funderburk, Esq.  
Funderburk, Day & Lane  
Post Office Box 1268  
Phenix City, Alabama 36868-1268

Attorney for Russell County, Alabama

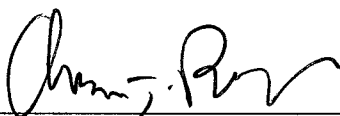
James P. Graham, Jr., Esq.  
The Graham Legal Firm  
Post Office Box 3380  
Phenix City, Alabama 36868-3380

Attorney for the City of Phenix City

Richard E. Broughton, Esq.  
Ball Ball Matthews & Novak, PA  
Post Office Box 2148  
Montgomery, Alabama 36102-2148

Co-Counsel for Defendant

This 8th day of December, 2006.

  
Counsel for Defendant

LIT975690.1



## CERTIFICATE OF GOOD STANDING

UNITED STATES OF AMERICA

}

} ss.

NORTHERN DISTRICT OF GEORGIA

}

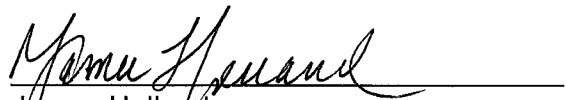
I, James N. Hatten, Clerk of the United States District Court for the Northern District of Georgia,

**DO HEREBY CERTIFY** that **STEPHEN EDMUND O'DAY**, State Bar No. 549337, was duly admitted to practice in said Court on July 16, 1979, and is in good standing as a member of the bar of said Court.

Dated at Atlanta, Georgia, this 8th day of December, 2006.

JAMES N. HATTEN  
CLERK OF COURT

By:

  
Jamee Holland  
Deputy Clerk

